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Promotion and protection of human rights: human rights questions, including alternative approaches for the effective enjoyment of human rights and fundamental freedoms

Albania, Argentina, Armenia, Australia, Austria, Azerbaijan, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Ecuador, El Salvador, Estonia, Finland, France, Germany, Greece, Guatemala, Hungary, Iceland, Italy, Latvia, Liechtenstein, Luxembourg, Montenegro, Netherlands, Norway, Peru, Poland, Portugal, Republic of Moldova, Romania, Slovakia, Slovenia, Sweden, Switzerland and United Kingdom of Great Britain and Northern Ireland: draft resolution

Human rights in the administration of justice

The General Assembly,

Bearing in mind the principles embodied in articles 3, 5, 8, 9 and 10 of the Universal Declaration of Human Rights[1] and the relevant provisions of the International Covenant on Civil and Political Rights and the Optional Protocols thereto,[2] in particular articles 6 and 10 of the Covenant, and all other relevant treaties,

Recalling all the resolutions of the General Assembly, the Human Rights Council, the Commission on Human Rights and the Economic and Social Council that are relevant to the subject of human rights in the administration of justice, including General Assembly resolutions 60/159 of 16 December 2005 and 62/158 of 18 December 2007, Human Rights Council resolution 10/2 of 25 March 2009 and Economic and Social Council resolution 2009/26 of 30 July 2009,

Calling attention to the numerous international standards in the field of the administration of justice,

[1] Resolution 217 A (III).
[2] See resolution 2200 A (XXI), annex, and resolution 44/128, annex.

Please recycle

Welcoming the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules),[3]

Welcoming also the Salvador Declaration on Comprehensive Strategies for Global Challenges: Crime Prevention and Criminal Justice Systems and Their Development in a Changing World, adopted at the Twelfth United Nations Congress on Crime Prevention and Criminal Justice,[4]

Acknowledging the efforts made by the Secretary-General to improve the coordination of United Nations activities in the field of administration of justice, the rule of law and juvenile justice,

Noting with appreciation the important work of the United Nations Office on Drugs and Crime, the Office of the United Nations High Commissioner for Human Rights, the relevant special procedure mandate holders of the Human Rights Council and the United Nations Children's Fund in the administration of justice, and welcoming their increased attention to the issue of justice for children and women in detention,

Noting with satisfaction the work of the Interagency Panel on Juvenile Justice and of its members, in particular their coordination in providing technical advice and assistance in juvenile justice, and the active participation of civil society in their respective work,

Convinced that the independence and impartiality of the judiciary, an independent legal profession and the integrity of the judicial system are essential prerequisites for the protection of human rights, the rule of law, good governance, democracy and sustainable development, as well as for ensuring that there is no discrimination in the administration of justice, and should therefore be respected in all circumstances,

Recalling that every State should provide an effective framework of remedies to redress human rights grievances or violations,

Emphasizing that the right to access to justice, including that of women, forms an important basis for strengthening the rule of law through the administration of justice,

Mindful of the importance of ensuring respect for the rule of law and human rights in the administration of justice, in particular in post-conflict situations, as a crucial contribution to building peace and justice and ending impunity,

Aware of the need for special vigilance with regard to the specific situation of children, juveniles and women in the administration of justice, in particular while they are deprived of their liberty, and their vulnerability to various forms of violence, abuse, injustice and humiliation,

Reaffirming that the best interests of the child must be a primary consideration in all decisions concerning children in the administration of justice, including in relation to pre-trial measures, as well as an important consideration in all matters concerning the child when sentencing primary caregivers of children,

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[3] See Economic and Social Council resolution 2010/16.

[4] A/CONF.213/18, chap. I, resolution 1.

1. Welcomes the most recent report submitted by the Secretary-General to the Human Rights Council on human rights in the administration of justice, including juvenile justice, emphasizing, inter alia, that the administration of justice extends beyond the criminal justice system to other means of administering justice;[5]

2. *Reaffirms* the importance of the full and effective implementation of all United Nations standards on human rights in the administration of justice;

3. *Reiterates its call* to all Member States to spare no effort in providing for effective legislative and other mechanisms and procedures, as well as adequate resources, to ensure the full implementation of those standards;

4. *Invites* States to make use of technical assistance offered by the relevant United Nations programmes in order to strengthen national capacities and infrastructures in the field of the administration of justice;

5. *Appeals* to Governments to include in their national development plans the administration of justice as an integral part of the development process and to allocate adequate resources for the provision of legal-aid services with a view to promoting and protecting human rights, and invites the international community to respond favourably to requests for financial and technical assistance for the enhancement and strengthening of the administration of justice;

6. *Stresses* the special need for national capacity-building in the field of the administration of justice, in particular through reform of the judiciary, the police and the penal system, as well as juvenile justice reform, in order to establish and maintain stable societies and the rule of law in post-conflict situations, and in this context welcomes the role of the Office of the United Nations High Commissioner for Human Rights in supporting the establishment and functioning of transitional justice mechanisms in post-conflict situations;

7. *Affirms* that States must ensure that any measure taken to combat terrorism, including in the administration of justice, complies with their obligations under international law, in particular international human rights, refugee and humanitarian law;

8. *Welcomes* the establishment of an open-ended intergovernmental expert group to exchange information on best practices, as well as on national legislation and existing international law, and on the revision of existing United Nations standard minimum rules for the treatment of prisoners so that they reflect recent advances in correctional science and best practices, with a view to making recommendations to the Commission on Crime Prevention and Criminal Justice on possible next steps, and encourages the expert group to actively engage with the Office of the United Nations High Commissioner for Human Rights;

9. *Encourages* States to endeavour to reduce, where appropriate, pre-trial detention by adopting legislation on preconditions for pre-trial detention and on alternative measures, and to promote increased access to justice and legal advice and assistance;

10. *Also encourages* States to draw on the United Nations Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok rules)[3] when developing and implementing relevant legislation,

[5] A/HRC/14/34.

procedures, policies and action plans, and invites treaty bodies, relevant special procedure mandate holders, the Office of the United Nations High Commissioner for Human Rights and all other relevant organizations to pay attention to these rules in their activities;

11. *Stresses* the importance of paying greater attention to the impact of imprisonment of parents on their children and welcomes in this respect the activities of the Committee of the Rights of the Child, and notes with interest, in particular, the planned day of general discussion by the Committee in 2011 on the theme "The situation of children of prisoners";

12. *Calls upon* States to identify and promote good practices in relation to the needs and physical, emotional, social and psychological development of babies and children affected by parental detention and imprisonment, and emphasizes that, when sentencing or deciding on pre-trial measures for a pregnant woman or a child's sole or primary caregiver, priority should be given to non-custodial measures, bearing in mind the gravity of the offence and after taking into account the best interests of the child;

13. *Recognizes* that every child and juvenile in conflict with the law must be treated in a manner consistent with his or her rights, dignity and needs, in accordance with international law, including relevant international standards on human rights in the administration of justice, and calls on States parties to the Convention on the Rights of the Child[6] to abide strictly by its principles and provisions;

14. *Encourages* States that have not yet integrated children's issues into their overall rule of law efforts to do so, and to develop and implement a comprehensive juvenile justice policy to prevent and address juvenile delinquency with a view also to promoting, inter alia, the use of alternative measures, such as diversion and restorative justice, and ensuring compliance with the principle that deprivation of liberty of children should be used only as a measure of last resort and for the shortest appropriate period of time, as well as to avoid, wherever possible, the use of pre-trial detention for children;

15. *Stresses* the importance of including rehabilitation and reintegration strategies for former child offenders in juvenile justice policies, in particular through education programmes, with a view to their assuming a constructive role in society;

16. *Urges* States to ensure that, under their legislation and practice, neither capital punishment nor life imprisonment without the possibility of release is imposed for offences committed by persons under 18 years of age;

17. *Calls upon* States to improve the collection of information on children within the criminal justice system and on the reasons leading to their placement in justice and care institutions, and to consider establishing independent monitoring mechanisms to safeguard their rights and address their complaints;

18. *Invites* Governments to provide for tailored and interdisciplinary training, including anti-racist, multicultural and gender-sensitive training, in human rights in the administration of justice, including juvenile justice, to all judges,

[6] United Nations, *Treaty Series*, vol. 1577, No. 27531.

lawyers, prosecutors, social workers, immigration and police officers and other professionals concerned, including personnel deployed in international field presences;

19. *Encourages* the regional commissions, the specialized agencies, United Nations institutes active in the areas of human rights and crime prevention and criminal justice, and other relevant parts of the United Nations system, as well as intergovernmental and non-governmental organizations, including national professional associations concerned with promoting United Nations standards in this field, and other segments of civil society, including the media, to continue to develop their activities in promoting human rights in the administration of justice;

20. *Invites* States, upon their request, to benefit from technical advice and assistance in juvenile justice provided by the relevant United Nations agencies and programmes, in particular the Interagency Panel on Juvenile Justice, in order to strengthen national capacities and infrastructures in the field of the administration of justice, in particular juvenile justice;

21. *Invites* the Human Rights Council and the Commission on Crime Prevention and Criminal Justice, as well as the Office of the United Nations High Commissioner for Human Rights and the United Nations Office on Drugs and Crime, to closely coordinate their activities relating to the administration of justice;

22. *Calls upon* the Office of the United Nations High Commissioner for Human Rights and the United Nations Office on Drugs and Crime to reinforce, within their respective mandates, their activities relating to national capacity-building in the field of the administration of justice, in particular in post-conflict situations and, in this context, in cooperation with the Department of Peacekeeping Operations of the Secretariat;

23. *Requests* the Secretary-General to ensure system-wide coordination and coherence of programmes and activities of the relevant parts of the United Nations system, including through the Peacebuilding Commission and the Rule of Law Unit, in the field of the administration of justice in post-conflict situations, including assistance provided through United Nations field presences;

24. *Calls upon* relevant special procedure mandate holders of the Human Rights Council to give special attention to questions relating to the effective protection of human rights in the administration of justice, including juvenile justice, and to provide, whenever appropriate, specific recommendations in this regard, including proposals for advisory services and technical assistance measures;

25. *Requests* the Secretary-General to submit to the General Assembly at its sixty-seventh session a report on the latest developments, challenges and good practices in human rights in the administration of justice, as well as the activities undertaken by the United Nations system as a whole;

26. *Decides* to continue its consideration of the question of human rights in the administration of justice at its sixty-seventh session under the item entitled "Promotion and protection of human rights".